IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 1ST NOVEMBER 2007 / 10TH KARTHIKA 1929

Crl.MC.No. 3320 of 2007()

CC.525/2007 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II, KANNUR

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PETITIONER: ACCUSED

SHAFI KONAYI, S/O AHAMED KUTTY,
KONAYIL HOUSE, AGED 30 YEARS,
P.O.IRINAVU, KANNUR.

BY ADV. SRI.A.MOHAMED MUSTAQUE
SRI.M.K.SUMOD

RESPONDENTS: STATE

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1. THE STATION HOUSE OFFICER,
VALIYAPATTOM, KANNUR.

2. THE STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY P.P. SRI. GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. No. 3320 OF 2007

Dated this the 1st day of November, 2007

ORDER

The petitioner faces indictment in a prosecution for offences punishable under Secs.279 and 304A of the IPC. The petitioner could not appear before the court for some period of time. Consequently, the case against him was transferred to the list of Long Pending Cases. Subsequently, the petitioner has entered appearance. He has been enlarged on bail subject to conditions. His personal appearance has been dispensed with under Sec.205 of the Cr.P.C. All offences alleged are summons offences. The petitioner does not want to dispute his identity in the course of trial. In these circumstances, the petitioner wants to return to his place of employment abroad. He runs the risk of losing his employment if he does not immediately return. His passport has been surrendered before

the learned Magistrate as a condition for grant of bail. The petitioner, in these circumstances, applied before the learned Magistrate for release of the passport. The learned Magistrate has, by the impugned order, rejected that prayer.

2. The learned counsel for the petitioner submits that subject to any appropriate conditions the passport may be directed to be released to him so that he can resume his employment abroad. Failure to do so will cause great hardship to the petitioner in life.

3. Notice was given. This application is not opposed by the learned Public Prosecutor. I am satisfied, in the facts and circumstances of this case, that subject to appropriate conditions, the petitioner's passport can be directed to be released to him.

4. In the result, this petition is allowed. The petitioner's passport shall be released to the petitioner on the following terms and conditions:

(i) The petitioner shall file an undertaking before the learned Magistrate that he shall not dispute his identity in the course of trial.

(ii) The petitioner shall execute a bond for Rs.25,000/- with two solvent sureties undertaking to appear before the

learned Magistrate and produce the passport before the learned Magistrate within a period of two months from the date on which a direction to that effect is issued by the learned Magistrate.

(iii) The petitioner shall file an undertaking before the learned Magistrate that the direction to the above effect can be issued to his counsel appearing for him before the court below.

5. Hand over a copy of this order to the learned counsel for the petitioner.

(R. BASANT, JUDGE)

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